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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/829,412

04/21/2004

Timm J. Fenton

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EXAMINER

WEAVER, SUE A

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

07/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary	Application No. 10/829,412	Applicant(s) FENTON ET AL.	
	Examiner Sue A. Weaver	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 28-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 28-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 May 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/1/07</u> . | 6) <input type="checkbox"/> Other: _____ |

1. The drawings were received on 5/1/07. These drawings are accepted.
2. Applicant is advised that should claim 2 be found allowable, claim 3 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2-11, 16, 17, 19-21, 28, 29, 30, 33 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants are advised that there doesn't appear to be any relationship established between at least one protrusion now claimed in claim 1 or at least a first protrusion now claimed in claim 26 and "a pair of first protrusions" claimed in claims 2, 3 and 28.

Moreover "at least a first protrusion" in claims 9 and 20 appear to be a double inclusion of at least one protrusion claimed in claim 1 and 15.

The claim for "a second member" in claim 30 appears to be a double inclusion of a second member now being claimed in claim 26

Claim 16 recites the limitation "the first protrusion" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "the at least first protrusion" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 36 recites the limitation "the handgrip base portion" and "the axially adjacent portion" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Applicants are advised the expression "sufficient for a portion of the first member extending into the internal volume" doesn't make sense as claimed in claims 8, 19 and 33.

4. Claims 1, 2, 8, 12-14, 26, 31,32, and 34-36 remain rejected under 35 U.S.C. 102(e) as being anticipated by Tsai '823, of record.

Member 96 is considered to define a joint locking member to the extent that it prevents the handle and tubular member for slipping laterally. Member 84 defines a first member external to the joint lock member and having a first protrusion 88, as claimed. The remaining features are self evident.

5. Claims 1-4, 12, 13, 15, 16, 18 and 22-24 remain rejected under 35 U.S.C. 102(e) as being anticipated by Lu '459, of record.

As with Tsai member 12 of Lu is considered to define a joint lock member while member 32 defines a first member with a pair of protrusions at 321. The remaining features are self evident.

6. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 15 above, and further in view of Tsai '823.

To have merely included a collar for the joint would have been obvious in view of such teaching by Tsai.

7. Claims 9-11, 30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 8 and 26 above, and further in view of Chen '423, of record.

To have provided retractable tubular member with a second member with a plurality of aligned protrusions to unlock the additional section would have been obvious in view of such teaching by Chen at 131.

8. Applicant's arguments, see page 13 of the amendment, filed 5/1/07, with respect to the objections to the specification, drawings and 112 rejection of claims 1, 15 and 26 have been fully considered and are persuasive. The objections and rejection of the claims has been withdrawn. Claim 27 has been canceled

9. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a first member spaced from the joint lock member and a second protrusion adapted to align with at least one first protrusion) are not recited in the rejected claim(s) 1 and 26. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In Figure 3 Lu shows both first and second members residing in the internal volume of the tubular member. In regard to claim 15, note that 120 of Lu is indeed spaced from 320.

10. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with

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all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Typed or printed name of person signing this certificate:

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548. The examiner can normally be reached on Tuesday-Friday (5:30-4).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor is Anthony Stashick_. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SW



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PRIMARY EXAMINER
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